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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,164	12/22/2003	Edward J. Rupnick	EJR-003	7747

7590

07/28/2005

Charles J. Rupnick  
PO Box 46752  
Seattle, WA 98146

EXAMINER
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WILLIAMS, JAMILA O

ART UNIT	PAPER NUMBER
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3722

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

TAKA

**Office Action Summary**

Application No.

10/743,164

Applicant(s)

RUPNICK, EDWARD J.

Examiner

Jamila O. Williams

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on amendment filed 5-5-2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 10,12,14,19 and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over of 2,807,908 to Lykes in view of 5,722,691 to Patel. Lykes discloses a rigid support member (7) formed with opposing edges and an elongated resilient elastic retainer to extend between the edges, with anchors (9) to secure the elastic retainer; wherein the elastic retainer is structured to pass through the passages of the elongated bar (fig 1-2), as recited in claims 10 and 23; wherein the support member comprises two spaced apart passages adjacent the opposing edges and wherein the passages comprise an aperture formed through the thickness of the support member and positioned adjacent an edge thereof (column 2 lines 46-50), as recited in claim 12. Lykes discloses a support member (7) having opposing edges with an elongated resilient elastic retainer extending therebetween via anchors (9). Lykes does not however disclose that the support member is substantially flat nor that the support member comprises a compacting means, as recited in claim 19. Patel provides a teaching for having a support member that is substantially uniformly narrow and flat (rectangular

member 20) and a means for folding the support member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the teachings of Patel (to make the support member flat and foldable) for the purpose of providing a better connection between the book and the support member and for the purpose of making the support member portable.

3. Claims 11 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lykes in view of Patel. Lykes discloses all of the elements of the claims as applied to claim 19 above but for the use of a slot at the edge of the elongated bar for connecting the elastic retainer thereto. Patel teaches the use of slot in the in the elongated bar for attaching the retainers 42,62 thereto. It would have been obvious to use slots in the support bar of Lykes as opposed to apertures for the purpose of providing a better connection between the elastic member and the support bar.
4. Claim 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lykes in view of '589 to Schwartz. Lykes discloses all of the elements of the claims including having first and second anchors on each end of the elastic retainer, as applied to claim 19 above. Lykes does not however disclose the use of a fabric covered elastic material. Schwartz teaches using a retaining means that is fabric covered (column 4 lines 41-42). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the fabric covered elastic material teaching of Schwartz with the retaining means of

Lykes for the purpose of providing a more durable retainer. Thus providing the elastic material with a slippery contact surface, as recited in claim 15.

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lykes in view of 4,462,614 to Krause. Lykes discloses all of the elements of the claims as applied to claim 19 above, but does not disclose the use of metal for the support member. Krause teaches using metal for a page marker (or support member). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the material of Krause with the support member of Lykes for the purpose of making the support member more stiff or rigid.
6. Claim 18 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lykes in view of Patel and further in view of 4,462,614 to Krause. Lykes and Patel disclose all of the elements of the claims as applied to claim 19 above. But the combination does not provide for a means for telescoping a first portion of the support bar relative to a second portion thereof. Krause teaches having a rectangular support bar with a telescoping means as claimed (see figure 6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the telescoping means of Krause with the bar of Lykes for the purpose of accommodating books of different sizes.

### ***Response to Arguments***

Applicant's arguments filed 5-5-2005 have been fully considered but they are not persuasive. Regarding the arguments that the support bar 7 of Lykes is not a "support

member” but is “a bar for laying over the pages of the book 63”, the examiner maintains that the bar 7 of Lykes satisfies the claim in that the bar does provide support. The fact that the bar 7 is a “secondary retaining element” (as described in applicant’s arguments) is irrelevant, this device still retains or supports. The applicant is also arguing the exact position of the support bar 7 of Lykes with regards to the spine or pages of the book. Applicant is reminded that the combination of the book and book page holder is not being claimed (see preamble of claim 19, “book page holder device **for** holding open the pages of a book...”) and as such the book page holder cannot be further limited by elements of the book.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamila O. Williams whose telephone number is 571-272-4431. The examiner can normally be reached on Mon-Fri 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jw

  
BOYER D. ASHLEY  
PRIMARY EXAMINER